

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
JAN 30 2008

TOM BRAUN,

CIV. 07-4171

Plaintiff,

vs.

MEMORANDUM OPINION AND
ORDER DENYING MOTION TO
PROCEED IN FORMA PAUPERIS
ON APPEAL

DAVID MILES, AND DEPUTIES
HODGEKISS, IRELAND, LAENSCH,
NASH, AND KUHN; CAROL MILLAN,
RICHARD ZIEGLER, DAVID WEITALA,
BERNIE SCHUMACHER AND JERRY
FISHER,

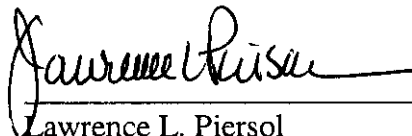
Defendants.

Plaintiff, Tom Braun, has moved to proceed in forma pauperis on appeal. Doc 13. This Court had previously denied Plaintiff's motion to proceed in forma pauperis in this action and dismissed the action because the complaint involves the same facts as the action for which summary judgment was entered against Tom Braun on September 28, 2007, in *Braun v. Davison County Sheriff and Department*, No. 06-4053 (D.S.D. Doc. 47). The Court carefully considered the matter and determined that the doctrine of res judicata applied and that it would have been futile for this Court to grant the application to proceed in forma pauperis in the case at hand. Doc. 4. For the same reason, this Court has determined under Federal Rule of Appellate Procedure 24(3)(A) that Plaintiff should not be entitled to proceed in forma pauperis on appeal. Accordingly,

IT IS ORDERED that Plaintiff's Motion to Appeal in Forma Puperis (Doc.13) is denied.

Dated this 29th day of January, 2008.


BY THE COURT:


Lawrence L. Piersol

United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

By: , Deputy
(SEAL)